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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

FILED

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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: DEPUTY

UNITED STATES OF AMERICA,	)	
	)	Magistrate Case No.________
Plaintiff,	)	
	)	COMPLAINT FOR VIOLATION OF
v.	)	
	)	Title 8, U.S.C., Section 1326
Napoleon ZEPEDA-Montes,	)	Attempted Entry After
	)	Deportation
Defendant.	)	
	)	

The undersigned complainant being duly sworn states:

On or about **March 29, 2008**, within the Southern District of California, defendant **Napoleon ZEPEDA-Montes**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, attempted to enter the United States with the purpose; i.e. conscious desire, to enter the United States at the **San Ysidro, California, Port of Entry**, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

Signature of Complainant
Sara Esparagoza, United States Customs
and Border Protection Enforcement Officer

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE THIS **1st** DAY OF **APRIL, 2008.**

UNITED STATES MAGISTRATE JUDGE

PROBABLE CAUSE STATEMENT

I, United States Customs and Border Protection (CBP) Enforcement Officer Jorge E. Rosario, declare under penalty of perjury the following to be true and correct:

On March 29, 2008, at approximately 7:00 AM, **Napoleon ZEPEDA-Montes (Defendant),** applied for admission into the United States from Mexico through the San Ysidro, California, Port of Entry pedestrian lanes. Defendant presented a Permanent Resident Alien Card (I-551) bearing his name and photo as his entry document to a U.S. Customs and Border Protection (CBP) Officer. Defendant stated to the CBP Officer that he was going to La Puente, California. The CBP officer queried Defendant's Permanent Resident Alien Card utilizing the card reader at the inspection booth, and received a match to the query for a suspect alien convicted felon. Defendant was escorted to the secondary area for further inspection.

During secondary inspection, Defendant was searched by fingerprint submission through the Integrated Automated Fingerprint Identification System (IAFIS). IAFIS returned a match to the query confirming Defendant's identity and linking him to an Immigration Service record and FBI record.

Central Index System (CIS) and Deportable Alien Control System (DACS) queries confirmed Defendant to be a citizen of Mexico with no legal rights or documents to enter the United States. DACS records indicate Defendant was ordered deported from the United States by an Immigration Judge on or about August 17, 2006, and was removed from the United States via the Nogales Port of Entry. Defendant Immigration records contain no evidence that Defendant has applied for, or received permission from the Attorney General or the Secretary of Homeland Security to legally re-enter the United States.

During a video recorded proceeding, Defendant was placed under arrest and advised of his Miranda rights. Defendant acknowledged his rights verbally and in writing, and agreed to answer questions without the benefit of counsel. Defendant admitted he is a citizen of Mexico by birth in Comala, Colima, Mexico with no legal rights or documents to enter the United States. Defendant admitted he was deported by an Immigration Judge, and was physically removed from the United States to Mexico. Defendant admitted he has not obtained permission from the United States Government to legally re-enter the United States. Defendant stated he intended to travel to La Puente and Bakersfield, California, to reunite with his family.

EXECUTED ON THIS **29th** DAY OF **MARCH, 2008** AT **4:00 PM**.

Jorge E. Rosario / CBP Enforcement Officer

On the basis of the facts presented in the Probable Cause Statement consisting of **one** page, I find probable cause to believe that the defendant named therein committed the offense on **March 29, 2008** in violation of Title 8, United States Code, Section 1326.

MAGISTRATE JUDGE

3/30/08 12:40pm
DATE / TIME